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** Pro Hac Vice Pending*

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JOHN DOE,

&

THE ALLIANCE FOR
CONSTITUTIONAL
SEX OFFENSE LAWS,

Plaintiffs,

v.

U.S. DEPARTMENT OF JUSTICE,

&

MERRICK B. GARLAND,
ATTORNEY GENERAL OF THE
UNITED STATES, in his official capacity,

Defendants.

Case No. 5:22-cv-00855

COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiffs, by their attorneys, Jeremy Talcott, Caleb Kruckenberg, and Steven
2 M. Simpson of the Pacific Legal Foundation, hereby allege the following:

3 **PRELIMINARY STATEMENT**

4 More than twenty-five years ago, Plaintiff John Doe, pled no contest to a single
5 misdemeanor count of sexual battery. When he was 23, he had a consensual but
6 inappropriate encounter with a 16-year-old, which did not involve sexual intercourse.
7 His conviction required him to register as a sex offender.

8 Since then, Mr. Doe has dedicated himself to making amends and becoming a
9 model citizen. He expressed sincere remorse for his crime and voluntarily underwent
10 psychological treatment. And equipped with a healthier perspective, he pursued
11 higher education and has had a rewarding and productive career, became a loving
12 husband and father, and became an active participant in his church. He has done
13 everything one is supposed to do following a criminal conviction.

14 Because of his remarkable rehabilitation, California courts expunged his
15 conviction and issued a certificate of rehabilitation, which is a judicial
16 recommendation for an unconditional pardon. He is no longer a convicted criminal
17 and has not registered as a sex offender for more than a decade.

18 California's interest in recognizing Mr. Doe's turnaround, however, has been
19 disregarded by the Attorney General of the United States. According to the Attorney
20 General in a new rule, *Registration Requirements Under the Sex Offender*
21 *Registration and Notification Act*, 86 Fed. Reg. 69,856 (Dec. 8, 2021), Mr. Doe is
22 still a convicted sex offender and must register under the federal Sex Offender
23 Registration and Notification Act (SORNA). Mr. Doe must do so, despite the fact
24 that California, which is instrumental to the proper functioning of SORNA, not only
25 doesn't require him to register but prohibits him from doing so.

26 The Attorney General has thus foisted a profound injustice on Mr. Doe. He is
27 requiring Mr. Doe to do the impossible: register in California as a sex offender when
28 such registration is impossible. But the failure to register under the provisions of

1 SORNA is a federal crime that carries a penalty of 10 years in prison. And the
2 Attorney General now *presumes* Mr. Doe is guilty of this crime.

3 Registering now, even if it were possible, would mean that Mr. Doe would
4 have to turn the clock back on the past decade and threaten his stable and productive
5 life. He would face restrictions on everyday activities like picking his children up
6 from school, face ostracization and harassment from his community, and put his hard-
7 earned career success at risk. He would even be forbidden from speaking freely about
8 his treatment at the hands of the government.

9 Mr. Does is not alone. Hundreds of other individuals who have had their
10 convictions expunged are in the same position. They now face orders to register, even
11 though they have no criminal convictions. And even those who *can* register in
12 California are presumed to be criminals because that state does not collect all of the
13 information required by the Attorney General.

14 The Attorney General has no lawful authority to overrule California's decision
15 and classify Mr. Doe and others in similar circumstances as sex offenders. In *Gundy*
16 *v. United States*, a plurality of the Supreme Court upheld a different provision of
17 SORNA over a nondelegation challenge but avoided the constitutional concerns
18 through narrow statutory interpretation. Writing for the four dissenters, Justice
19 Gorsuch recognized that a delegation that “purports to endow the nation’s chief
20 prosecutor with the power to write his own criminal code” “scrambles th[e] design”
21 of the Constitution, which “promises that only the people’s elected representatives
22 may adopt new federal laws restricting liberty.” 139 S.Ct. 2116, 2131 (2019).

23 This case illustrates why Justice Gorsuch was correct. Under our constitution,
24 no executive official should have the power to transform thousands of law-abiding
25 citizens into criminals with the stroke of a pen—least of all the head of the agency
26 that prosecutes those individuals. Because *Gundy* involved a different provision of
27 SORNA, the Court’s decision does not control the outcome of this case, and this case
28 instead presents the question expressly reserved by the majority. This Court should

1 therefore hold the new rule unconstitutional.

2 **THE PARTIES**

3 1. Plaintiff, John Doe,¹ is an individual residing in the State of California.

4 2. Mr. Doe enlisted in the U.S. Marine Corps at age 17 and was honorably
5 discharged in 1996.

6 3. In 1994, while he was 23 and still serving in the Marines, Mr. Doe engaged in
7 an otherwise-consensual encounter with a 16-year-old girl. This incident did not
8 involve sexual intercourse.

9 4. In 1996, Mr. Doe pled no contest to a single misdemeanor count of sexual
10 battery under California Penal Code § 243.4(a) and was sentenced to no jail time and
11 three years' probation.

12 5. Mr. Doe was then required to register for life with the State of California as a
13 sex offender.

14 6. After the conviction, Mr. Doe obtained his bachelor's degree, followed by a
15 master's degree, and rose through the ranks of various companies.

16 7. In 2005, Mr. Doe was engaged to be married and rented a second home for
17 him and his future wife. Mr. Doe did not, however, move into the home.

18 8. Mr. Doe did not understand that his obligation to register as a sex offender
19 included registering his rental home address, where he did not live. He did not
20 immediately update his registration information to include the future home as an
21 additional residence address.

22 9. In 2006, Mr. Doe was charged with a misdemeanor count of failing to register
23 under California Penal Code § 290(g)(1). He pled no contest and was sentenced to
24 three years' probation.

25 10. Mr. Doe subsequently got married and had two children.

26 11. Mr. Doe became an involved father, active in his church and community, and

27 _____
28 ¹ John Doe is a pseudonym. Plaintiffs will file a motion for leave to proceed pseudonymously as soon as this matter is docketed.

1 continued to advance his career.

2 12. At present, Mr. Doe is a successful businessman residing in California.

3 13. Because of his rehabilitation, a state court expunged Mr. Doe's original
4 conviction in 2002 pursuant to Cal. Penal Code § 1203.4.

5 14. In 2010, a state court expunged Mr. Doe's failure to register conviction, also
6 pursuant to Cal. Penal Code § 1203.4.

7 15. Then in 2012, a state court issued a "Certificate of Rehabilitation" to Mr. Doe,
8 under Cal. Penal Code § 4852.01, which California law recognizes as a "judicial
9 recommendation for a pardon." *People v. Ansell*, 25 Cal. 4th 868, 891 (Cal. 2001).

10 16. Under California law, Mr. Doe is no longer required to register as a sex
11 offender and has no criminal convictions.

12 17. The Alliance for Constitutional Sex Offense Laws (ACSOL) is a nonprofit
13 organization "dedicated to protecting the Constitution by restoring the civil rights of
14 people listed on the public registries and their families."
15 <https://all4consolaws.org/about-us/>.

16 18. ACSOL is based in California and has more than 100,000 California
17 registrants among its membership.

18 19. Mr. Doe is an ACSOL member.

19 20. ACSOL has members within the Central District of California and regularly
20 advocates for those members' interests in courts, legislative bodies, and the public.

21 21. One of ACSOL's central purposes is limiting unlawful registration
22 requirements for its membership to help its members live law-abiding and
23 productive lives as a part of their communities.

24 22. Defendant Merrick B. Garland is the Attorney General of the United States
25 and is sued in his official capacity.

26 23. Defendant Garland is the head of the U.S. Department of Justice.

27 24. Defendant U.S. Department of Justice (DOJ) is a federal agency, which issued
28 the rule challenged in this case.

1 25. On December 8, 2021, DOJ, at the direction of Defendant Garland, issued the
2 rule, *Registration Requirements Under the Sex Offender Registration and*
3 *Notification Act*, 86 Fed. Reg. 69,856 (Dec. 8, 2021).

4 26. The new rule became effective on January 7, 2022.

5 27. Under the new rule, despite his conviction having been expunged, Mr. Doe is
6 required to re-register as a sex offender in California.

7 28. In addition, Mr. Doe is directed to provide all of the information required by
8 the new rule to California authorities in person, but California has informed him that
9 he cannot do so as he is not considered a registrant under California law.

10 29. Many of ACSOL's members are in similar circumstances.

11 30. ACSOL's membership includes individuals convicted of sex offenses, as
12 described by federal law, and required to register as sex offenders under both
13 California and federal law. These members would be required to comply with the
14 new rule, even though California does not provide avenues for them to provide all
15 of the required information to California authorities.

16 31. ACSOL's membership also includes individuals convicted of California
17 crimes that are sex offenses, as described by federal law, who are putatively required
18 to register as sex offenders under federal law, but have had their convictions
19 expunged under California Penal Code § 1203.4 and have no other convictions.

20 32. ACSOL's membership also includes individuals convicted of California
21 crimes that are sex offenses, as described by federal law, who are putatively required
22 to register as sex offenders under federal law, but have been granted relief from
23 registration under California Penal Code § 290.5 and have no other convictions.

24 33. Like Mr. Doe, these ACSOL members with either expunged convictions or
25 relief from registration have no obligation to register under California law, and
26 indeed, *cannot* register, yet are presumed to be in non-compliance with the new rule.

27 34. Throughout this Complaint, Defendants are referred jointly as DOJ or the
28 Department except where otherwise specified.

Jurisdiction and Venue

35. This Court has federal question jurisdiction pursuant to 5 U.S.C. § 702 and 28 U.S.C. § 1331.

36. This Court also has inherent equitable jurisdiction to decide federal constitutional issues. *See Sierra Club v. Trump*, 929 F.3d 670, 694 (9th Cir. 2019).

37. This Court has the authority to grant an injunction and declaratory judgment in this matter pursuant to 28 U.S.C. §§ 2201, 2202 and 5 U.S.C. §§ 705, 706(2).

38. Venue for this action properly lies in this district pursuant to 5 U.S.C. § 703 and 28 U.S.C. § 1391(b)(2), (e)(1) because a defendant resides in this district, and a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

STATEMENT OF FACTS

I. Legal Background

39. SORNA conditions certain federal funding on a state's implementation of a comprehensive federal registration system for those convicted of certain offenses. *See* 34 U.S.C. § 20913. When a jurisdiction fails to "substantially implement" SORNA, the Attorney General shall order that 10% of relevant grant funding be withheld from the state as a penalty. 34 U.S.C. § 20927(a).

40. To enforce SORNA, Congress also passed 18 U.S.C. § 2250. This statute makes it a federal crime, punishable by up to 10 years in prison, for anyone to fail to register as directed by SORNA. 18 U.S.C. § 2250(a)(1).

41. SORNA contains a number of delegations of authority to the Attorney General to decide its implementation and scope. In Section 20912(b), the Attorney General is directed to "issue guidelines and regulations to interpret and implement" SORNA. In Section 20913(d), the Attorney General is given "the authority to specify the applicability of the requirements of this subchapter to sex offenders convicted before the enactment of this chapter or its implementation in a particular jurisdiction, and to prescribe rules for the registration of any such sex offenders and for other

1 categories of sex offenders who are unable to comply with” initial registration. In
2 Section 20914(a)(7) and (8), the Attorney General can decide what information a
3 registrant must provide to their local jurisdiction, including “any . . . travel-related
4 information required by the Attorney General,” or “[a]ny other information required
5 by the Attorney General.” Finally, the Attorney General may direct a registrant to
6 “provide and update information” in whatever “time and manner” he prescribes. 34
7 U.S.C. § 20914(c).

8 42. In *Gundy v. United States*, the Supreme Court addressed a non-delegation
9 challenge only to 34 U.S.C. § 20913(d) as it related to the initial registration
10 requirement. 139 S.Ct. 2116, 2123 (2019). While the statute on its face allowed the
11 Attorney General to determine whether SORNA would apply to pre-enactment
12 convictions, according to a plurality of the Court, the Court had “already interpreted
13 § 20913(d) to say something different—to require the Attorney General to apply
14 SORNA to all pre-Act offenders as soon as feasible.” *Id.* (citing *Reynolds v. United*
15 *States*, 565 U.S. 432, 442–43 (2012)).

16 43. The plurality, therefore, avoided the delegation question entirely. Four justices
17 concluded that “because § 20913(d) does not give the Attorney General anything
18 like the ‘unguided’ and ‘unchecked’ authority that Gundy says” there was no need
19 to wade into any difficult delegation questions. *Id.* The plurality noted, however, that
20 if the statute had granted the discretion Gundy had argued, “we would face a
21 nondelegation question.” *Id.*

22 44. Justice Alito cast the deciding vote, and joined the outcome, but only
23 concluded that Section 20913(d) set out a “discernable standard that is adequate
24 under the approach this Court has taken for many years.” *Id.* at 2131. He also wrote,
25 however, “[i]f a majority of this Court were willing to reconsider the approach we
26 have taken for the past 84 years, I would support that effort.” *Id.* at 2132.

27 45. Justice Kavanaugh, who had joined the Court but did not participate in the
28 decision, has since expressed his view that “Justice Gorsuch’s scholarly analysis of

1 the Constitution’s nondelegation doctrine in his *Gundy* dissent may warrant further
 2 consideration in future cases.” *Paul v. United States*, 140 S.Ct. 342, 342 (2019)
 3 (statement respecting denial of cert.).

4 **II. The New Rule**

5 46. The Attorney General has now issued regulations implementing new SORNA
 6 requirements under the remaining delegations of authority not discussed in *Gundy*.
 7 *Registration Requirements Under the Sex Offender Registration and Notification*
 8 *Act*, 86 Fed. Reg. 69,856 (Dec. 8, 2021).

9 47. In a rule that took effect on January 7, 2022, the Attorney General invoked his
 10 authority under 34 U.S.C. § 20912(b), 20913(d), and 20914(a)(7), (8), (b) to create
 11 much more burdensome registration requirements. *Id.* at 69,856.

12 48. According to the new rule, SORNA applies to “all sex offenders” “regardless
 13 of when the conviction . . . occurred” and “regardless of whether a jurisdiction has
 14 substantially implemented the Act.” *Id.* at 69,884. According to the Attorney
 15 General, this would apply even to convictions that were expunged, as “only pardons
 16 on the grounds of innocence terminate registration obligations under SORNA.” *Id.*
 17 at 69,866; *see also Office of Sex Offender Sentencing, Monitoring, Apprehending,*
 18 *Registering and Tracking, National Guidelines* 73 Fed. Reg. 38,030, 38,050 (July 2,
 19 2008) (“SMART Guidelines”) (registration is excused only “if the predicate
 20 conviction is reversed, vacated, or set aside, or if the person is pardoned for the
 21 offense on the ground of innocence,” and “an adult sex offender is ‘convicted’ for
 22 SORNA purposes if the sex offender remains subject to penal consequences based
 23 on the conviction, however, it may be styled”).

24 49. The rule also sets out the information a registrant must provide to a local
 25 jurisdiction, which now includes a social security number, his “remote
 26 communication identifiers” (e.g., internet usernames), his work or school
 27 information, and information concerning any international travel, passport, and
 28 vehicle registration or professional licenses. *Id.* at 69,885.

1 50. The registrant must also appear “in-person” at least yearly in his local
2 jurisdiction, and verify all information. *Id.* at 69,885–86. Depending on his predicate
3 offense, the registrant may be required to appear as many as four times per year. *Id.*
4 He must also report, in person, changes in address within three days, give advance
5 notice if he plans to change residences, jobs, or school, report changes in remote
6 communication identifiers within three days, and international travel plans prior to
7 any trip. *Id.* at 69,886.

8 51. Any violations are federal felonies. *Id.*

9 52. Moreover, if a local jurisdiction does not comply with SORNA registration
10 requirements, then a registrant is *guilty of the crime* of failing to register unless he
11 proves at trial that registration was, in essence, impossible. That is, the new rule
12 provides individuals who live in non-compliant states with an affirmative defense,
13 but that defense is only available if they can prove at trial that “uncontrollable
14 circumstances prevented the sex offender from complying with SORNA, [that] the
15 sex offender did not contribute to the creation of those circumstances in reckless
16 disregard of the requirement to comply and complied as soon as the circumstances
17 preventing compliance ceased to exist.” *Id.* There is, of course, no guarantee that an
18 individual will be able to prevail on this defense and they must undergo the time and
19 expense of a trial to find out if their state’s non-compliance has turned them into a
20 felon.

21 53. In the rule, the Department addressed non-delegation issues following *Gundy*.
22 First, it read the *Gundy* decision as authorizing any action under Section 20913(d)
23 because it “involved no exercise of legislative authority” and merely implemented
24 SORNA as soon as possible. *Id.* at 69,869. Concerning Section 20914(a)(8), the
25 Department insisted that this “is not an impermissible delegation of legislative
26 authority, but rather is instrumental to the Attorney General’s effectuating the
27 legislative objective to protect the public from sex offenders and offenders against
28 children by establishing a comprehensive national system for the registration of

1 those offenders.” *Id.* at 69,856 (cleaned up). “The Attorney General’s exercise of the
2 authority under section 20914(a)(8) is limited to requiring additional information
3 that furthers the legislative public safety objective or the implementation or
4 enforcement of SORNA’s provisions.” *Id.*

5 **III. The Effect on Plaintiffs**

6 54. Although Mr. Doe is not required—or even permitted—to register as a sex
7 offender under California law, the new rule nevertheless requires him to register and
8 comply with the new rule’s requirements.

9 55. In particular, Mr. Doe will be required to provide information such as his social
10 security number, his “remote communication identifiers” (e.g., internet usernames),
11 his work or school information, and information concerning any international travel,
12 passport, and vehicle registration or professional licenses to local authorities, in
13 person at least yearly. Mr. Doe must also report, in person, changes in address within
14 three days, give advance notice if he plans to change residences jobs or schools,
15 report changes in remote communication identifiers within three days, and
16 international travel plans prior to any trip.

17 56. Merely being required to register as a sex offender will prevent Mr. Doe from
18 going to his children’s schools, will harm his reputation, would likely result in the
19 loss of his job, ostracization from his community, and potentially require him to
20 move to avoid being near public schools and parks.

21 57. Furthermore, if Mr. Doe fails to follow any of the rule’s registration
22 requirements, he faces criminal prosecution and up to 10 years in federal prison.

23 58. California does not consider Mr. Doe a sex offender, however, and will not
24 allow him to register in compliance with the new rule. California has no mechanism
25 for registering people with no convictions, so the authorities simply turn him away
26 when he has attempted to comply with the new rule.

27 59. DOJ has even found that California has not “substantially complied” with
28 SORNA, in part, because it does not collect all of the information required by the

1 Attorney General. Nevertheless, the Attorney General still requires Mr. Doe to
2 register as a sex offender with the State of California.

3 60. And because the new rule makes the impossibility of registration only an
4 affirmative defense to a criminal prosecution, Mr. Doe faces potential criminal
5 liability at any time.

6 61. The Department thus presumes that Mr. Doe is guilty of violating 18 U.S.C. §
7 2250(a)(1) and is free to initiate prosecution at will.

8 62. Mr. Doe also seeks to engage in anonymous speech on the internet through the
9 use of anonymous remote communication identifiers, such as email addresses and
10 social media usernames. He wishes to remain anonymous to preserve his privacy,
11 and to avoid adverse reputational and other risks related to his past offenses. He also
12 wishes to speak anonymously about issues of public concern, including sex offender
13 registration requirements, and the unfairness of the new SORNA rule.

14 63. The new rule requires Mr. Doe to disclose his remote communication
15 identifiers, which could be accessible by members of the public. Because of this
16 disclosure requirement, Mr. Doe worries that he cannot speak freely about issues of
17 public concern, particularly the new SORNA rule, without jeopardizing his
18 reputation, privacy, and the safety of his family. Mr. Doe has refrained from
19 speaking on these matters of public concern using his anonymous remote
20 communication identifiers because of the new rule.

21 64. ACSOL has members in California who likewise have been convicted of sex
22 offenses, as described by federal law, and are required to register as sex offenders
23 under both California and federal law. These members would be required to comply
24 with the new rule, even though California does not provide avenues for them to
25 provide all of the required information to California authorities. These members are
26 also presumed guilty of violating 18 U.S.C. § 2250(a)(1) and the United States is
27 free to initiate prosecution at any time.

28 65. ACSOL's membership also includes individuals convicted of California

1 crimes that are sex offenses, as described by federal law, who are putatively required
2 to register for life as sex offenders under federal law, but have had their convictions
3 expunged under California Penal Code § 1203.4 or have been granted relief from
4 registration under California Penal Code § 290.5 and have no other convictions. Like
5 Mr. Doe, these ACSOL members have no obligation to register under California
6 law, yet are presumed to be in non-compliance with the new rule and presumed
7 guilty of violating 18 U.S.C. § 2250(a)(1).

8 66. ACSOL members who will be forced to re-register, despite having had their
9 offenses of conviction expunged under California law face significant collateral
10 consequences, such as loss of career opportunities and professional licensing,
11 adverse reputation harms, inability to travel freely, and residency restrictions.

12 67. ACSOL's membership also includes individuals who wish to engage in
13 anonymous speech on the internet through the use of anonymous remote
14 communication identifiers, such as email addresses and social media usernames.
15 These members wish to remain anonymous to preserve their privacy, and to avoid
16 adverse reputational and other risks related to their past convictions. They also wish
17 to speak anonymously about issues of public concern, including sex offender
18 registration requirements and the unfairness of the new SORNA rule.

19 68. The new rule requires these ACSOL members to disclose their remote
20 communication identifiers, which could be accessible by members of the public.
21 Because of this disclosure requirement, these ACSOL members worry that they
22 cannot speak freely about issues of public concern, particularly the new SORNA
23 rule, without jeopardizing their reputation, privacy, and the safety of their families.
24 These ACSOL members have refrained from speaking on these matters of public
25 concern using their anonymous remote communication identifiers, because of the
26 new rule.

**COUNT I—VIOLATION OF U.S. CONSTITUTION, NON-DELEGATION
DOCTRINE, AND SEPARATION OF POWERS**

69. Plaintiffs repeat and reallege each and every allegation hereinabove as if fully set forth herein.

70. The Administrative Procedure Act (APA) directs a court to “hold unlawful and set aside” an agency’s rule that is “contrary to constitutional right.” 5 U.S.C. § 706(2)(B).

71. Article I, § 1, of the Constitution provides: “All legislative Powers herein granted shall be vested in a Congress of the United States.”

72. No agency has any inherent power to make law, and “an agency literally has no power to act . . . unless and until Congress confers power upon it.” *La. Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 374 (1986).

73. Article II, § 3, of the Constitution directs that the President “shall take Care that the Law be faithfully executed”

74. A “fundamental precept” of “another strand of [] separation-of-powers jurisprudence, the delegation doctrine,” “is that the lawmaking function belongs to Congress, U.S. Const., Art. I, § 1, and may not be conveyed to another branch or entity.” *Loving v. United States*, 517 U.S. 748, 758 (1996).

75. Congress may not “abdicate or [] transfer to others the essential legislative functions with which it is thus vested.” *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495, 529 (1935).

76. The President, acting through his agencies, therefore, may not exercise Congress’ legislative power to declare entirely “what circumstances . . . should be forbidden” by law. *Panama Refining Co. v. Ryan*, 293 U.S. 388, 418–19 (1935).

77. The provisions in 34 U.S.C. §§ 20912 and 20914 granting the Attorney General authority to issue the SORNA rule at issue, in this case, are unlawful delegations of legislative authority.

78. The statutes delegate to the Attorney General the unrestrained authority to

1 impose any registration requirement on sex offenders, without any guiding
2 principles.

3 79. The statutes impermissibly allow the Attorney General to unilaterally define
4 the scope of violations of 18 U.S.C. § 2250.

5 80. The new rule exercises this delegated authority to create new registration
6 requirements that are not required or even contemplated by Congressional directive.

7 81. As a result of the foregoing, Plaintiffs are entitled to a declaratory judgment
8 and permanent injunction declaring the delegations in 34 U.S.C. §§ 20912 and 20914
9 invalid, barring enforcement of the final rule, vacatur of the rule, attorneys' fees,
10 expenses, costs and disbursements, and any other relief that may be appropriate.

11 **COUNT II—VIOLATION OF THE ADMINISTRATIVE PROCEDURE**

12 **ACT, 5 U.S.C. § 706(2)(C)—RULE IN EXCESS OF STATUTORY**

13 **AUTHORITY**

14 82. Plaintiffs repeat and reallege each and every allegation hereinabove as if fully
15 set forth herein.

16 83. The executive branch's authority "must stem either from an act of Congress or
17 from the Constitution itself." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S.
18 579, 585 (1952). Likewise, "[i]t is axiomatic that an administrative agency's power
19 to promulgate legislative regulations is limited to the authority delegated by
20 Congress." *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988). The APA
21 directs a court to "hold unlawful and set aside" an agency's rule that is "arbitrary,
22 capricious, an abuse of discretion, or otherwise not in accordance with law,"
23 "contrary to constitutional right" or "in excess of statutory jurisdiction [or]
24 authority." 5 U.S.C. § 706(2)(A), (B), (C).

25 84. The final rule was issued in excess of statutory authority and is therefore
26 invalid.

27 85. Under SORNA, "The term 'sex offender' means an individual who was
28 *convicted* of a sex offense." 34 U.S.C. § 20911(1) (emphasis added). As relevant

1 here, “‘sex offense’ means—a criminal offense that has an element involving a
2 sexual act or sexual contact with another[.]” *Id.* at § 10911(5)(A)(i).

3 86. Invoking Section 20912(b), the new rule creates 28 C.F.R. § 72.2, which says,
4 “All terms used in this part have the same meaning as in SORNA.” 86 Fed. Reg. at
5 69,884. In the explanation for the rule, DOJ elaborated that, notwithstanding a
6 comment asking “that a sex offender be removed from the sex offender registry if
7 he receives a pardon,” it believed that “only pardons on the ground of innocence
8 terminate registration obligations under SORNA[.]” *Id.* at 69,866.

9 87. The new rule, therefore, considers Mr. Doe’s expunged convictions, as well as
10 the expunged convictions of other ACSOL members, to be “convictions” requiring
11 registration.

12 88. Under the plain meaning of the statutory text, a “conviction” does not include
13 an adjudication that has been expunged under California law.

14 89. If a defendant satisfies its conditions, Section 1203.4(a)(1) results in him being
15 “permitted by the court to withdraw their plea of guilty or plea of nolo contendere
16 and enter a plea of not guilty; or, if they have been convicted after a plea of not
17 guilty, the court shall set aside the verdict of guilty[.]”

18 90. Section 1203.4 thus “enables [a] defendant to truthfully represent to friends,
19 acquaintances and private sector employers that he has no conviction.” *People v.*
20 *Arata*, 151 Cal. App. 4th 778, 788 (Cal. Ct. App. 2007) (citation omitted).

21 91. Because the new rule considers expunged convictions to nevertheless require
22 registration, it conflicts with the plain meaning of the statutory term “conviction”
23 and is thus invalid.

24 92. As a result of the foregoing, Plaintiffs are entitled to a declaratory judgment
25 and permanent injunction barring enforcement of the final rule, vacatur of the rule,
26 attorneys’ fees, expenses, costs and disbursements, and any other relief that may be
27 appropriate.
28

COUNT III—VIOLATION OF U.S. CONSTITUTION, DUE PROCESS

CLAUSE

93. Plaintiffs repeat and reallege each and every allegation hereinabove as if fully set forth herein.

94. A court must set aside agency action that is “contrary to [a] constitutional right.” 5 U.S.C. § 706(2)(B).

95. The due process clauses of the Fifth and Fourteenth Amendments to the U.S. Constitution require the government to bear the burden of proving beyond a reasonable doubt all of the elements of a crime. *See In re Winship*, 397 U.S. 358, 361–62 (1970). This forbids shifting “the burden of proof to the defendant” to “prove the critical fact in dispute.” *Mullaney v. Wilbur*, 421 U.S. 684, 701 (1975). Indeed, while legislatures have the power to define the elements of offenses, “[i]t is not within the province of a legislature to declare an individual guilty or presumptively guilty of a crime.” *Patterson v. New York*, 432 U.S. 197, 210, (1977) (citation omitted). In all cases, due process requires that the government “must prove every ingredient of an offense beyond a reasonable doubt and that it may not shift the burden of proof to the defendant by presuming that ingredient upon proof of the other elements of the offense.” *Id.* at 215; *see also Dixon v. United States*, 548 U.S. 1, 6 (2006) (recognizing that due process does not allow shifting the burden to the defense to disprove “any of the elements of the offense itself”).

96. All crimes require an *actus reus*, which the government must prove beyond a reasonable doubt.

97. Due process also requires that a person cannot be held criminally responsible for things over which he has no control.

98. According to DOJ, California has not substantially implemented SORNA, in part, because it does not require registrants to provide all the information required by the Attorney General.

99. Mr. Doe and other members of ACSOL are not required to register under

1 California law because their convictions have been expunged under Cal. Penal Code
2 § 1203.4.

3 100. Mr. Doe and other members of ACSOL whose sex offense convictions have
4 been expunged under Cal. Penal Code § 1203.4, are not *permitted* by California
5 authorities to register as sex offenders as required by the new rule.

6 101. Other members of ACSOL who have successfully petitioned for relief from
7 registration under Cal. Penal Code § 290.5 are also neither required to register under
8 California law nor *permitted* to register as sex offenders as required by the new rule.

9 102. New Section 72(g)(1) asserts that the government has no obligation “to
10 establish that a registration jurisdiction’s procedures would have allowed a sex
11 offender to register or keep the registration current in conformity with SORNA”
12 before it prosecutes them for failing to do the “impossible.” 86 Fed. Reg. at 69,867,
13 69,886.

14 103. The new rule presumes Mr. Doe and other members of ACSOL whose sex
15 offense convictions have been expunged under Cal. Penal Code § 1203.4 or have
16 been granted relief under Cal. Penal Code § 290.05 are guilty of the *actus reus* of
17 Section 2250 because the state does not provide any means for them to comply with
18 the rule’s registration requirements.

19 104. The new rule “declare[s] an individual guilty or presumptively guilty of a
20 crime,” in violation of due process. *See Patterson*, 432 U.S. at 210.

21 105. As a result of the foregoing, Plaintiffs are entitled to a declaratory judgment
22 and permanent injunction barring enforcement of the final rule, vacatur of the rule,
23 attorneys’ fees, expenses, costs and disbursements, and any other relief that may be
24 appropriate.

25 **COUNT IV—VIOLATION OF U.S. CONSTITUTION, FIRST**
26 **AMENDMENT**

27 106. Plaintiffs repeat and reallege each and every allegation hereinabove as if fully
28 set forth herein.

1 107. A court must set aside agency action that is “contrary to [a] constitutional
2 right.” 5 U.S.C. § 706(2)(B).

3 108. “A fundamental principle of the First Amendment is that all persons have
4 access to places where they can speak and listen, and then, after reflection, speak
5 and listen once more.” *Packingham v. North Carolina*, 137 S.Ct. 1730, 1735 (2017).
6 The “most important place[] (in a spatial sense) for the exchange of views” today is
7 “cyberspace ... and social media in particular.” *Id.* This applies in equal measure to
8 those previously convicted of sex offenses. *Id.* Indeed, because people who have
9 completed their sentences in full now only live with “collateral consequences of
10 conviction rather than [] a restraint on liberty,” and are thus “no longer subject to
11 formal punishment,” they “enjoy the full protection of the First Amendment.” *Doe*
12 *v. Harris*, 772 F.3d 563, 572 (9th Cir. 2014) (citations omitted).

13 109. As the Ninth Circuit has held, when the government requires those convicted
14 of sex offenses to provide law enforcement with their remote communication
15 identifiers it “imposes a substantial burden on sex offenders’ ability to engage in
16 legitimate online speech, and to do so anonymously,” in violation of the First
17 Amendment. *Id.* at 574, 578.

18 110. The new rule violates the First Amendment because it requires Mr. Doe, as
19 well as ACSOL’s members, to provide up-to-date “remote communication
20 identifiers” as a part of their registration information. *See* 86 Fed. Reg. at 69,885.
21 The definition of “remote communication identifiers” is impermissibly vague, and
22 chills free expression and anonymous speech. *See* 86 Fed. Reg. at 69,859. The
23 identifiers can also be disseminated to the public at will, states are encouraged to
24 allow members of the public to check specific identifiers to see if they belong to a
25 registrant, and jurisdictions are encouraged to share them with law enforcement
26 agencies. *See Id.* Plus registrants must update any changes within three days, *in*
27 *person* with law enforcement. *Id.* at 69,885. There is little doubt that this provision
28 unlawfully chills protected speech, particularly anonymous speech, yet fails to meet

1 constitutional scrutiny.

2 111. As a result of the foregoing, Plaintiffs are entitled to a declaratory judgment
3 and permanent injunction barring enforcement of the final rule, vacatur of the rule,
4 attorneys' fees, expenses, costs and disbursements, and any other relief that may be
5 appropriate.

6 **PRAYER FOR RELIEF**

7 **WHEREFORE**, for the foregoing reasons, Plaintiffs demand judgment against
8 Defendants as follows:

9 (i) The issuance of a preliminary injunction prohibiting Defendants from
10 enforcing the final rule pursuant to 5 U.S.C. § 705 and 28 U.S.C. § 2201;

11 (ii) A declaratory judgment, pursuant to 5 U.S.C. § 706(2) and 28 U.S.C. §
12 2202, holding unlawful and setting aside 34 U.S.C. §§ 20912 and 20914 and the final
13 rule;

14 (iii) An award of attorneys' fees and costs to Plaintiffs; and

15 (iv) Any other relief as the Court deems just, equitable and proper.

16 **JURY DEMAND**

17 Plaintiffs herein demand a trial by jury of all triable issues in the present matter.

18 DATED: May 23, 2022

19 Respectfully submitted,

20 JEREMY TALCOTT

21 By s/ Jeremy Talcott

JEREMY TALCOTT

22 STEVEN M. SIMPSON

23 By s/ Steven M. Simpson

STEVEN M. SIMPSON

24 CALEB KRUCKENBERG

25 By s/ Caleb Kruckenberg

CALEB KRUCKENBERG*

26
27 **Pro Hac Vice Application Forthcoming*
28 *Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**I. (a) PLAINTIFFS** (Check box if you are representing yourself ☐)JOHN DOE and THE ALLIANCE FOR CONSTITUTIONAL
SEX OFFENSE LAWS**DEFENDANTS** (Check box if you are representing yourself ☐)U.S. DEPARTMENT OF JUSTICE and MERRICK B. GARLAND,
ATTORNEY GENERAL OF THE UNITED STATES, in his official capacity,(b) County of Residence of First Listed Plaintiff Sacramento

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are
representing yourself, provide the same information.JEREMY TALCOTT, Pacific Legal Foundation, 1212 West Amerige Avenue
Fullerton, CA 92833-2709, Telephone: (916) 419-7111Attorneys (Firm Name, Address and Telephone Number) If you are
representing yourself, provide the same information.**II. BASIS OF JURISDICTION** (Place an X in one box only.)☐ 1. U.S. Government
Plaintiff☐ 3. Federal Question (U.S.
Government Not a Party)☒ 2. U.S. Government
Defendant☐ 4. Diversity (Indicate Citizenship
of Parties in Item III)**III. CITIZENSHIP OF PRINCIPAL PARTIES**-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

Citizen of This State

PTF ☐ 1 DEF ☐ 1Incorporated or Principal Place
of Business in this StatePTF ☐ 4 DEF ☐ 4

Citizen of Another State

☐ 2 ☐ 2Incorporated and Principal Place
of Business in Another State☐ 5 ☐ 5Citizen or Subject of a
Foreign Country☐ 3 ☐ 3

Foreign Nation

☐ 6 ☐ 6**IV. ORIGIN** (Place an X in one box only.)☒ 1. Original
Proceeding☐ 2. Removed from
State Court☐ 3. Remanded from
Appellate Court☐ 4. Reinstated or
Reopened☐ 5. Transferred from Another
District (Specify) _____☐ 6. Multidistrict
Litigation -
Transfer☐ 8. Multidistrict
Litigation -
Direct File**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION under F.R.Cv.P. 23:** ☐ Yes ☒ No☐ **MONEY DEMANDED IN COMPLAINT:** \$ _____**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Declaratory action under APA (5 USC 706) and U.S. Constitution Art. I, Section 1, 5th & 14th Amend., 1st Amend.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee Sentence	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 140 Negotiable Instrument	TORTS	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	PERSONAL INJURY	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	Other:	SOCIAL SECURITY
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 485 Telephone Consumer Protection Act	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	FORFEITURE/PENALTY	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 350 Motor Vehicle	CIVIL RIGHTS	<input type="checkbox"/> 690 Other	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	REAL PROPERTY	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	LABOR	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 896 Arbitration		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input checked="" type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 790 Other Labor Litigation	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 369 Personal Injury Product Liability	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

5:22-cv-00855

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

QUESTION A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question C. If "yes," answer Question B.1, at right.	B.1. Do 50% or more of the defendants who reside in the district reside in Orange Co.? <i>check one of the boxes to the right</i> ➡	YES. Your case will initially be assigned to the Southern Division. <input type="checkbox"/> Enter "Southern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Continue to Question B.2.
	B.2. Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> ➡	YES. Your case will initially be assigned to the Eastern Division. <input type="checkbox"/> Enter "Eastern" in response to Question E, below, and continue from there. NO. Your case will initially be assigned to the Western Division. <input type="checkbox"/> Enter "Western" in response to Question E, below, and continue from there.

QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "no," skip to Question D. If "yes," answer Question C.1, at right.	C.1. Do 50% or more of the plaintiffs who reside in the district reside in Orange Co.? <i>check one of the boxes to the right</i> ➡	YES. Your case will initially be assigned to the Southern Division. <input type="checkbox"/> Enter "Southern" in response to Question E, below, and continue from there. <input checked="" type="checkbox"/> NO. Continue to Question C.2.
	C.2. Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> ➡	YES. Your case will initially be assigned to the Eastern Division. <input checked="" type="checkbox"/> Enter "Eastern" in response to Question E, below, and continue from there. NO. Your case will initially be assigned to the Western Division. <input type="checkbox"/> Enter "Western" in response to Question E, below, and continue from there.

QUESTION D: Location of plaintiffs and defendants?	A. Orange County	B. Riverside or San Bernardino County	C. Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County
Indicate the location(s) in which 50% or more of <i>plaintiffs who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location(s) in which 50% or more of <i>defendants who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

D.1. Is there at least one answer in Column A? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes," your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question E, below, and continue from there. If "no," go to question D2 to the right. ➡	D.2. Is there at least one answer in Column B? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "yes," your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question E, below. If "no," your case will be assigned to the WESTERN DIVISION. Enter "Western" in response to Question E, below. ↓
--	--

QUESTION E: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, C, or D above: ➡	EASTERN

QUESTION F: Northern Counties?
Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

IX(a). IDENTICAL CASES: Has this action been previously filed in this court?

☒ NO

☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Is this case related (as defined below) to any civil or criminal case(s) previously filed in this court?

☒ NO

☐ YES

If yes, list case number(s): _____

Civil cases are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges.

Note: That cases may involve the same patent, trademark, or copyright is not, in itself, sufficient to deem cases related.

A civil forfeiture case and a criminal case are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. Involve one or more defendants from the criminal case in common and would entail substantial duplication of labor if heard by different judges.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): Jeremy Talcott

DATE: 5/23/22

Notice to Counsel/Parties: The submission of this Civil Cover Sheet is required by Local Rule 3-1. This Form CV-71 and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. For more detailed instructions, see separate instruction sheet (CV-071A).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

Signature of Clerk or Deputy Clerk

Civil Action No. 5:22-cv-00855

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

JOHN DOE and THE ALLIANCE FOR
CONSTITUTIONAL SEX
OFFENSE LAWS

Plaintiff(s)

v.

U.S. DEPARTMENT OF JUSTICE and MERRICK B.
GARLAND, ATTORNEY GENERAL OF THE
UNITED STATES, in his official capacity

Defendant(s)

Civil Action No. 5:22-cv-00855

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

JEREMY TALCOTT
Pacific Legal Foundation
1212 West Amerige Avenue
Fullerton, CA 92833-2709

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 5:22-cv-00855

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

JOHN DOE and THE ALLIANCE FOR
CONSTITUTIONAL SEX
OFFENSE LAWS

Plaintiff(s)

v.

U.S. DEPARTMENT OF JUSTICE and MERRICK B.
GARLAND, ATTORNEY GENERAL OF THE
UNITED STATES, in his official capacity

Defendant(s)

Civil Action No. 5:22-cv-00855

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Civil Process Clerk
United States Attorney's Office
Federal Building
300 N. Los Angeles Street, Suite 7516
Los Angeles, California 90012

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

JEREMY TALCOTT
Pacific Legal Foundation
1212 West Amerige Avenue
Fullerton, CA 92833-2709

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 5:22-cv-00855

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

From: cacd_ecfmail@cacd.uscourts.gov
To: noreply@ao.uscourts.gov
Subject: Activity in Case 5:22-cv-00855 Doe et al v. U.S Department of Justice et al Complaint (Attorney Civil Case Opening)
Date: Tuesday, May 24, 2022 8:40:53 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Notice of Electronic Filing

The following transaction was entered by Talcott, Jeremy on 5/24/2022 at 5:40 PM PDT and filed on 5/24/2022

Case Name: Doe et al v. U.S Department of Justice et al
Case Number: [5:22-cv-00855](#)
Filer: John Doe
THE ALLIANCE FOR CONSTITUTIONAL SEX OFFENSE LAWS
Document Number: [2](#)

Docket Text:

COMPLAINT with filing fee previously paid (\$402 paid on 05/23/2022, receipt number 33345519), filed by attorney John Doe, THE ALLIANCE FOR CONSTITUTIONAL SEX OFFENSE LAWS. (Attachments: # (1) Civil Cover Sheet, # (2) Summons - M. Garland, # (3) Summons - US DOJ, # (4) Summons - USAGO) (Attorney Jeremy Brennan Talcott added to party John Doe(pty:pla), Attorney Jeremy Brennan Talcott added to party THE ALLIANCE FOR CONSTITUTIONAL SEX OFFENSE LAWS(pty:pla))(Talcott, Jeremy)

5:22-cv-00855 Notice has been electronically mailed to:

Jeremy Brennan Talcott jtalcott@pacificlegal.org, cpiett@pacificlegal.org,
incominglit@pacificlegal.org, tdyer@pacificlegal.org

5:22-cv-00855 Notice has been delivered by First Class U. S. Mail or by other means BY THE FILER to :

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:C:\fakepath\Final Complaint 5232022 file --.pdf

Electronic document Stamp:

[STAMP cacdStamp_ID=1020290914 [Date=5/24/2022] [FileNumber=33975038-0]
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Document description:Civil Cover Sheet

Original filename:C:\fakepath\Civil Cover Sheet flat --.pdf

Electronic document Stamp:

[STAMP cacdStamp_ID=1020290914 [Date=5/24/2022] [FileNumber=33975038-1]
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Document description: Summons - M. Garland

Original filename:C:\fakepath\Merrick Garland Summons flat --.pdf

Electronic document Stamp:

[STAMP cacdStamp_ID=1020290914 [Date=5/24/2022] [FileNumber=33975038-2]
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Document description: Summons - US DOJ

Original filename:C:\fakepath\U.S. DOJ Summons flat --.pdf

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Document description: Summons - USAGO

Original filename:C:\fakepath\US Attorney General Summons flat --.pdf

Electronic document Stamp:

[STAMP cacdStamp_ID=1020290914 [Date=5/24/2022] [FileNumber=33975038-4]
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